

IN RE: PETITION FOR ZONING VARIANCE
S/S Middletown Road, 82' NW
of the c/l of Gore Mill Road
(19926 Middletown Road)
6th Election District
3rd Councilmanic District
Helen M. Yingling
Petitioner

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 91-277-A

VINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a variance to permit a dwelling to centerline setback of 38 feet in lieu of the required 75 feet, a dwelling to proposed property line setback of 31 feet in lieu of the required 35 feet, and an existing accessory structure (garage) which is not subordinate in area to the principal dwelling, all as more particularly described on Petitioner's Exhibit 1.

The Petitioner appeared and testified. Also appearing on behalf of the Petition were James W. McKee, Professional Land Survey with McKee and Associates, and John Ernst, nearby property owner.

Testimony indicated that the subject property, known as 19926 Middletown Road, consists of 3.036 acres zoned R.C. 2 and is presently improved with a single family dwelling, detached garage, barn and shed. Petitioner is desirous of subdividing the property into two lots as depicted on Petitioner's Exhibit 1. Testimony indicated that the existing dwelling, which is greater than 100 years of age, does not comply with current setback requirements. Ms. Yingling testified that the garage, which was constructed in 1981 after obtaining the requisite building permits, is larger than the dwelling. She indicated that at that time, there was no mention that a variance would be required for the garage. Ms. Yingling argued that the granting of the variance for both the garage and dwelling

does not create any detriment to the health, safety or general welfare of the surrounding community. In her opinion, a denial will create practical difficulty without any benefit to the public.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 28th day of February, 1991 that the Petition for Zoning Variance to permit a dwelling to centerline setback of 38 feet in lieu of the required 75 feet, a dwelling to proposed property line setback

- 2 -

of 31 feet in lieu of the required 35 feet, and an existing accessory structure (garage) which is not subordinate in area to the principal dwelling, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED subject, however, to the following restrictions which are conditions precedent to the relief granted:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

- 2) Petitioner shall not allow or cause the accessory structure to be converted to a second dwelling unit and/or apartments. The garage shall contain no living or sleeping quarters, and no kitchen or bathroom facilities.

Ann M. Nastarowicz
ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjs

ORDER RECEIVED FOR FILING
Date 2/28/91
By [Signature]

- 3 -

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



111 West Chesapeake Avenue
Towson, MD 21204

887-3353

February 28, 1991

Ms. Helen M. Yingling
19926 Middletown Road
Freeland, Maryland 21053

RE: PETITION FOR ZONING VARIANCE
S/S Middletown Road, 82' NW of the c/l of Gore Mill Road
(19926 Middletown Road)
6th Election District - 3rd Councilmanic District
Helen M. Yingling - Petitioner
Case No. 91-277-A

Dear Ms. Yingling:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,

Ann M. Nastarowicz
ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjs

cc: Mr. Thaddeus Cox
19860 Middletown Road, Freeland, Md. 21053

People's Counsel

File

PETITION FOR ZONING VARIANCE
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 91-277-A

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1A01.3B.3 to permit a 38 foot dwelling to centerline setback in lieu of the required 75 foot setback and a 31 foot dwelling to proposed property line setback in lieu of the required 35 foot setback, and a variance from Section 101 definitions to permit an existing accessory structure (garage) which is not subordinate in area to the principal dwelling.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty.)

1. The buildings are existing.
2. The subdivision of the property creates the 31 foot setback deficiency.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm under the penalties of perjury that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: Helen M. Yingling
(Type or Print Name)
Signature: *Helen M. Yingling*
Address: (Type or Print Name)
City and State: Signature
Attorney for Petitioner: 19926 Middletown Road
(Type or Print Name) Address Phone No.
Freeland, Maryland 21053
City and State: Signature
Name, address and phone number of legal owner, contract purchaser or representative to be contacted
Address: McFee & Associates, Inc.
City and State: Name
Attorney's Telephone No.: 5 Shawan Road, Hunt Valley, Md. 21030
Address Phone No.
527-1595

ORDERED By The Zoning Commissioner of Baltimore County, this 12 day

of Dec 1990, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 108, County Office Building in Towson, Baltimore

County, on the 25 day of Feb 1991, at 11 o'clock

AM

RECEIVED FOR FILING

DATE 2/28/91

BY [Signature]

AM

AM

AM

AM

AM

AM

AM

AM

AM

AM

ZONING DESCRIPTION
PROPOSED LOT 1, YINGLING PROPERTY
19926 MIDDLETOWN ROAD
SIXTH ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND

Beginning for the same at a point situated on the southerly most right-of-way line of Middletown Road, being a future 70 foot right-of-way, said point being situated 825 feet, more or less northwesterly from the centerline of Gore Mill Road; thence running South 60° 04' 37" West 80.38 feet to a point; thence South 31° 10' 27" West 103.00 feet to a point; thence North 52° 36' 48" West 211.28 feet to a point; thence North 27° 26' 39" East 211.58 feet to a point on the southerly most right-of-way line of Middletown Road; thence along said right-of-way by a curve to the right having a radius of 3,715.00 feet, an arc length of 162.38 feet, and being subtended by a chord bearing and distance South 46° 39' 19" East 162.37 feet to a point; thence South 53° 19' 59" East 64.09 feet to a point; thence South 36° 40' 01" West 6.50 feet to a point; thence by a curve to the right having a radius of 3,715.00 feet, an arc length of 42.45 feet, and being subtended by a chord bearing and distance South 44° 04' 36" East 42.45 feet to the point of beginning. Containing 44,698 square feet or 1.026 acres of land, more or less. Being known as #19926 Middletown Road.

91-277-A

214

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 8th
Date of Posting: January 29, 1991
Posted for: Variance
Petitioner: Helen M. Yingling
Location of property: S/S Middletown Road, 82.5' NW of c/l of Gore Mill Road
Middle Road, 19926 Middletown Road
Location of Sign: S/S Middletown Road, in front of subject property
Remarks:
Posted by: A. J. Arate
Signature
Date of return: February 1, 1991
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD., 2-6-1991

THIS IS TO CERTIFY, that the annexed advertisement was published in TOWSON TIMES, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 1-31, 1991.

TOWSON TIMES,

S. Zate Olson
Publisher

\$ 95.53

CERTIFICATE OF PUBLICATION

TOWSON, MD., 2-6-1991

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 1-31, 1991.

THE JEFFERSONIAN,

S. Zate Olson
Publisher

\$ 95.53

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 108 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Case number: 91-277-A
S/S Middletown Road, 82' NW of c/l of Gore Mill Road
19926 Middletown Road
6th Election District
Petitioner:
Helen M. Yingling
Hearing Date: Monday
Feb. 26, 1991 at 11:00 a.m.

Variance: to permit a 38 foot dwelling to centerline setback in lieu of the required 75 foot setback and a 31 foot dwelling to proposed property line setback in lieu of the required 35 foot setback, and a variance to permit an existing accessory structure (garage) which is not subordinate in area to the principal dwelling.

J. ROBERT HAINES
Zoning Commissioner of Baltimore County
T/10/1946 Jan. 31.

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account R 001:6150
Number

receipt
N: 3928

Date

PUBLIC HEARING FEES

ONE HOURS VARIANCE (1PL)

LAST NAME OF CHIEF: YINGLING

CTV

PRICE

TOTAL: \$35.00

8404000420HCD \$35.00
84 000420HCD-20-90

Cashier Validation:

Please make checks payable to: Baltimore County

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6150
Number

91-277-A

Date: 2/25/91

25/91

PUBLIC HEARING FEES QTY PRICE
POSTING SIGNS / ADVERTISING 1 X \$120.00
TOTAL \$120.00

LAST NAME OF OWNER: YINGLING

144038065810000 \$120.00

Please Make Checks Payable To: Baltimore County 111056402-25-91

Cashier Validation

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204 887-3353

DATE: 2/12/91

Helen M. Yingling
19926 Middletown Road
Freeland, Maryland 21053

RE:
Case Number: 91-277-A
5/8 Middletown Road, 825' NW of c/1 Gore Mill Road
19926 Middletown Road
6th Election District - 3rd Councilmanic
Petitioner(s): Helen M. Yingling
HEARING: MONDAY, FEBRUARY 25, 1991 at 11:00 a.m.

Dear Petitioner(s):

Please be advised that \$120.00 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

J. Robert Haines
ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204 887-3353

January 18, 1991

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Case Number: 91-277-A
5/8 Middletown Road, 825' NW of c/1 Gore Mill Road
19926 Middletown Road
6th Election District - 3rd Councilmanic
Petitioner(s): Helen M. Yingling
HEARING: MONDAY, FEBRUARY 25, 1991 at 11:00 a.m.

Variance to permit a 38 foot dwelling to contain setback in lieu of the required 75 foot setback and a 31 foot dwelling to proposed property line setback in lieu of the required 35 foot setback, and a variance to permit an existing accessory structure (garage) which is not subordinate in area to the principal dwelling.

J. Robert Haines
Zoning Commissioner of
Baltimore County

cc: Helen M. Yingling
McKee Associates, Inc.

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204 887-3353

February 11, 1991

Ms. Helen Yingling
19926 Middletown Road
Freeland, MD 21053

RE: Item No. 214, Case No. 91-277-A
Petitioner: Helen M. Yingling
Petition for Zoning Variance

Dear Ms. Yingling:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE MINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,
James E. Dyer
Chairman
Zoning Plans Advisory Committee

JED:jw
Enclosures

cc: McKee & Associates, Inc.
5 Shawan Road
Hunt Valley, MD 21030

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204 887-3353

Your petition has been received and accepted for filing this 12th day of December, 1990.

J. Robert Haines
ZONING COMMISSIONER

Received By:
James E. Dyer
Chairman,
Zoning Plans Advisory Committee

Petitioner: Helen M. Yingling
Petitioner's Attorney:

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines
Zoning Commissioner

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

DATE: December 3, 1990

SUBJECT: Edith May Souza, Item No. 166
Earlie E. and Linda R. Towe, Item No. 170
Roland H. and Darlene Farlow, Item No. 171
Kwan Woo Lee, Item No. 173
Harry E. Belsinger, et al., Item No. 175
Gary D. and Kathleen M. Stewart, Item No. 178
Dale A. and Cheryl Polczynski, Item No. 181
Bruce D. and Mary V. Frith, Item No. 182
Eileen C. Mislner, Item No. 183
William M. and Constance M. Pitcher, Item No. 185
Key Federal Savings Bank, Item No. 186
Stephen D. and Wendy K. Mooney, Item No. 189
Brian D. and Tullia Briscoe, Item No. 193
Charles Henry and Vickie Jean Wallis, Item No. 195
Sharon Plaskowski, Item No. 196
Gary E. Stahl, Item No. 199
Keith E. and Terri L. Yeager, Item No. 201
Robert E. and Deborah L. Jennings, Item No. 202
Gloria P. Brown, Item No. 203
Robert E. and Karen F. Ege, Item No. 207
Javad Darbandi, Item No. 208
Thomas D. and Jeannette Considine, Item No. 209
Helen M. Yingling, Item No. 214

In reference to the Petitioners' requests, staff offers no comments.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/cmm
ITEMSMUL.TPL/ZAC1

received
12/10/90

Baltimore County Government
Department of Public Works
Bureau of Traffic Engineering

401 Bosley Avenue Suite 405
Towson, MD 21204 887-3554
Fax 887-5784

December 10, 1990

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 207, 209, 214, and 219.

Very truly yours,
Michael S. Flanagan
Traffic Engineer Associate II

MSF/lab

received
12/13/90

Baltimore County
Fire Department
700 East Joppa Road, Suite 901
Towson, Maryland 21204-5500
(301) 887-4500

Paul H. Reincke
Chief

DECEMBER 3, 1990

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: HELEN M. YINGLING
Location: #19926 MIDDLETOWN ROAD
Item No.: 214 Zoning Agenda: DECEMBER 11, 1990

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation. PROPOSED PARKING DRIVEWAY SHALL BE CONSTRUCTED IN ACCORDANCE WITH BALTIMORE COUNTY COUNCIL BILL NO. 172-89 AND RESOLUTION NO. 52-89.

REVIEWER: [Signature] Noted and Approved: [Signature]
Planning Group Fire Prevention Bureau
Special Inspection Division

JK/KEK

received
12/14/90

received
12/6/90

A REVIEW OF THE SITE PLAN FOR THE ABOVE ZONING ITEM INDICATES THE FOLLOWING:

- PERMITS MAY BE APPLIED FOR @ ROOM 100, 111 WEST CHESAPEAKE AVENUE,
TOWSON, MARYLAND 21204 - PHONE - 687-3900.
- THIS REVIEW COVERS ONLY MAJOR ITEMS ASSOCIATED WITH THE SITE PLAN, A
FULL REVIEW MAY BE CONDUCTED WHEN THE PERMIT APPLICATION AND PLANS ARE
SUBMITTED.
- APPLICABLE CODE: 1987 NATIONAL BUILDING CODES AS ADOPTED BY COUNCIL BILL #158-86

TO: Zoning Advisory Committee DATE: November 30, 1990
FROM: Robert M. Rouling, F.E.
RE: Zoning Advisory Committee Meeting
For December 11, 1990

The Developers Engineering Division has reviewed the subject pending items and we have no comments for Items 205, 207, 209, 219 and 147 revised (7438 Gum Spring Road).

For Item 214, the site is subject to minor subdivision comments.

For Item 215, the previous County Review Group comments are applicable.

Robert W. Bowling
ROBERT W. BOWLING, P. E., Chief
Developers Engineering Division

RWB:s

PETITIONER(S) SIGN-IN SHEET

1. Lin McKee
Helen Youngling
John Lee

ADDRESS
5 Shawson Rd. Hunt Valley Md
19926.4 Middlebourn Road
30005 Middletown Rd.

NOTE:

THE OVERALL PROPERTY SHOWN
HEREON IS CURRENTLY BEING
PROCESSED FOR SUBDIVISION (MINOR
SUBDIVISION C.R.G. NO. 90365 MP)

REQUESTED VARIANCE

VARIANCE FROM SECTION 101.3.3 TO PERMIT A 35
FOOT DWELLING TO CENTERLINE SETBACK IN LIEU OF THE
REQUIRED 75 FOOT SETBACK AND A 31 FOOT DWELLING TO
REAR PROPERTY LINE SETBACK IN LIEU OF THE REQUIRED
35 FOOT SETBACK, AND A VARIANCE FROM SECTION 101.3.4
INITIATIONS TO PERMIT AN EXISTING ACCESSORY STRUCTURE
(GARAGE) WHICH IS NOT SUBORDINATE IN AREA TO THE PRIN-
CIPLE DWELLING.

PRETTYBOY TREE FARM INC.
8216 450
TAX ACCT. # 0420050010
EX. USE
AGRICULTURAL / VACANT
RC-2

EX. USE
AGRICULTURAL / VACANT
PRETTYBOY TREE FARM INC.
8216 450
TAX ACCT. # 0420050010
RC-2

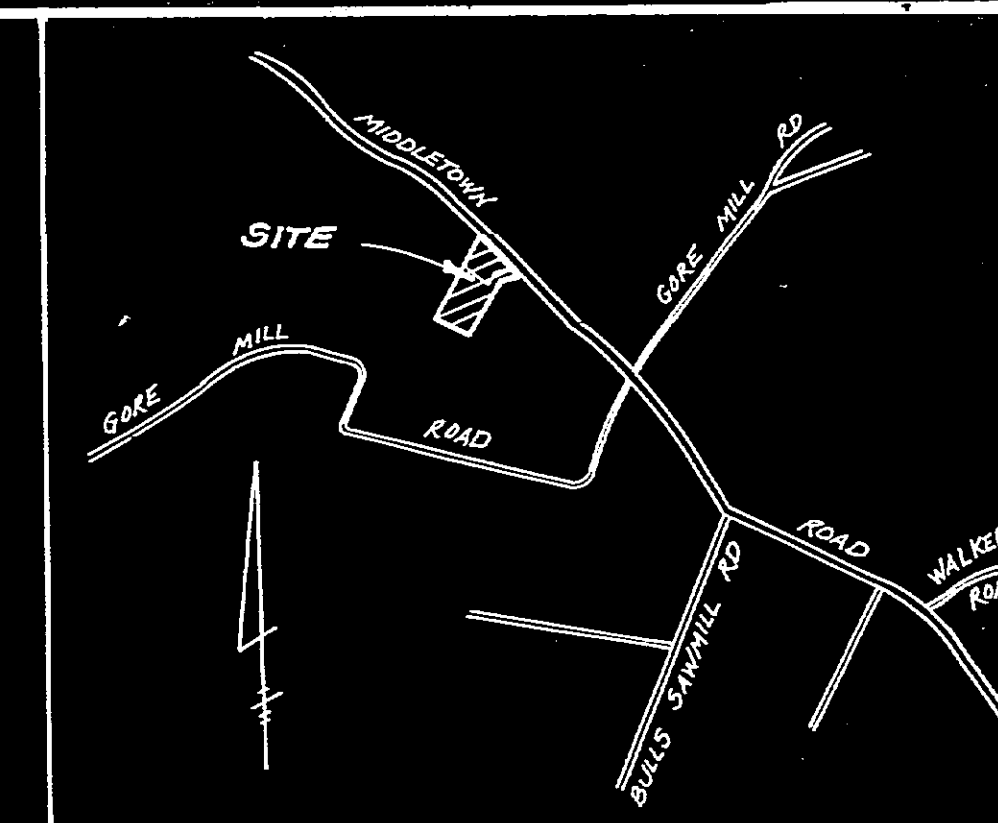
JAMES W. McKEE
MD REG. No. 9012
McKEE & ASSOCIATES, INC.
CIVIL ENGINEERS - LAND SURVEYORS
SHAWAN PLACE 5 SHAWAN ROAD
HUNT VALLEY, MD 21030
PHONE (301) 527-1555

OWNER

HELEN M. YINGLING
19926 MIDDLETOWN ROAD
FREELAND, MARYLAND 21053
DEED REFERENCE: 5823/928

SCALE: 1"=50'

6TH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND
COUNCILMANIC DISTRICT 3



VICINITY MAP
(SCALE: 1" = 2000')

EXISTING ZONING: RC-2

NOTE:

THE OVERALL PROPERTY AS SHOWN ON THE
PLAN HAS BEEN HELD INTACT BY THE OWNERSHIP
ON THIS PLAT SINCE NOV. 9, 1977.

PLAT TO ACCOMPANY PETITION
FOR ZONING VARIANCE
FOR
PROPOSED LOT ONE

YINGLING PROPERTY

(#19926 MIDDLETOWN ROAD)

CITY EXHIBIT
NOVEMBER 1, 1990

Z14